

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 252 (Delegate Holmes)
 Ways and Means

Recordation and Transfer Taxes - Payment

This bill allows a buyer to pay recordation and transfer taxes in equal installments over a period of one year from the date of purchase.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Special fund revenues could decrease due to a reduction in interest earnings on transfer and recordation tax payments. General fund expenditures could increase by approximately \$44,200 in FY 2005. Future year expenditures reflect annualization and inflation.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	44,200	54,000	56,900	60,200	63,600
Net Effect	(\$44,200)	(\$54,000)	(\$56,900)	(\$60,200)	(\$63,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in local government expenditures and decrease in local government revenue. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal. The bill allows small businesses who purchase property to have the option to pay recordation and transfer taxes in equal installment payments over a one-year period of time. Purchasers would be required to have less money at closing.

Analysis

Current Law: Before real property can be transferred, a buyer must pay transfer and recordation taxes to the clerk of the court, or the Department of Assessments and Taxation (SDAT) if the transfer is occurring due to articles of transfer, articles of merger, or articles of consolidation.

Background: Most transfers of real estate are done by deed recorded in land records with the clerks of the courts. There were 138,187 parcels involved in arms-length transactions by deed statewide in fiscal 2003 and 142,214 parcels involved in arms-length transactions by deed statewide in fiscal 2002. Arms-length transactions are transactions between independent parties. SDAT only collects recordation and transfer taxes for transfers of businesses. SDAT depends upon deeds to determine which properties have sold.

State Fiscal Effect: The bill allows a buyer to elect to pay the required transfer and recordation taxes over a period of one year and to have the deed or articles recorded prior to the entire fee being paid. The bill does not impose any interest on the unpaid tax amount, nor does the bill define the number of installments for the payment. It is estimated that the State will collect approximately \$132.8 million in transfer taxes in fiscal 2005.

This could result in a decrease of special fund revenue as a result of interest income on tax payments being lost on the deferred recordation and transfer taxes. However, the amount is expected to be minimal.

In fiscal 2003, SDAT processed 49 transactions for which recordation and transfer taxes were paid. The amount of taxes paid was \$1.2 million. In fiscal 2002, SDAT processed 60 transactions for which recordation and transfer taxes were paid. The amount of taxes paid was \$2.3 million.

SDAT's general fund expenditures could increase by an estimated \$44,178 in fiscal 2005, based on a 90-day start-up delay after the bill's July 1, 2004 effective date. This estimate reflects the cost of hiring one accountant to track all installment payments of recordation and transfer taxes which could result from the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Future year expenditures reflect: (1) a full salary with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

Local Fiscal Effect: Allowing buyers of real estate to pay recordation and transfer taxes over a one-year period following the purchase of the property would affect the timing of

recordation and transfer taxes being paid to local governments. As a result, recordation and transfer taxes could be paid in two fiscal years for a single property transaction. This could reduce tax collections in the first year and result in a loss of interest income on the deferred tax amount. The bill provides no mechanism to recoup unpaid taxes or lost interest earnings. Local governments would also incur additional expenses to keep track of the taxes that have been paid and the amount remaining due to transfers involving individuals who opt to pay the taxes in installments.

Local transfer and recordation taxes totaled \$436 million in fiscal 2001, accounting for 6% of total local tax revenues. **Exhibit 1** shows the amount of tax collections for each jurisdiction. Based on fiscal 2001 collections, local governments could realize a \$200 million reduction in tax collections in the first year assuming most individuals decide to pay their transfer and recordation taxes in monthly installments. This revenue loss results from taxes being paid in two fiscal years instead of one. This would only be a one-time revenue loss for the counties. However, counties would incur an annual loss in interest earnings. An additional fiscal concern is the impact the bill would have on a jurisdiction's cash flow situation. Caroline County indicates that in the past it had to rely on an annual tax anticipation note in order to meet the county expenditures for the fiscal year.

The following provides a more comprehensive analysis for certain jurisdictions.

Baltimore City indicates that the bill could result in an annual revenue decrease of approximately \$500,000 and a one-time revenue loss of approximately \$20 million in fiscal 2005.

Montgomery County estimates that it would lose approximately \$2 million in fiscal 2005 from lost interest earnings. Revenues are expected to decline by between 3% and 5% each year thereafter. The county also would need to upgrade its computer tax system and hire nine additional individuals in order to carry out the provisions of the bill. It is estimated that these additional expenditures would total approximately \$645,000 in fiscal 2006, increasing by approximately 4% annually thereafter.

Prince George's County indicates that it would incur a one-time revenue decrease of approximately \$200,000.

Finally, Caroline County and Howard County indicate significant revenue decreases as well as expenditure increases would result from the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Assessments and Taxation, Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - February 9, 2004
lc/hlb

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Exhibit 1
Local Transfer and Recordation Taxes
Fiscal 2001

<u>County</u>	<u>Transfer</u>	<u>Recordation</u>	<u>Total</u>
Allegany	\$117,501	\$584,766	\$702,267
Anne Arundel	26,977,887	25,366,084	52,343,971
Baltimore City	18,468,131	16,192,421	34,660,552
Baltimore	36,417,141	18,451,651	54,868,792
Calvert	0	5,944,949	5,944,949
Caroline	266,971	818,642	1,085,613
Carroll	0	6,593,595	6,593,595
Cecil	31,370	2,531,279	2,562,649
Charles	0	17,017,614	17,017,614
Dorchester	805,462	890,316	1,695,778
Frederick	0	15,255,569	15,255,569
Garrett	974,733	1,558,968	2,533,701
Harford	4,563,274	8,716,976	13,280,250
Howard	10,880,263	11,162,658	22,042,921
Kent	413,540	862,187	1,275,727
Montgomery	64,660,270	37,197,982	101,858,252
Prince George's	54,901,486	18,915,599	73,817,085
Queen Anne's	1,120,467	2,539,229	3,659,696
St. Mary's	2,488,089	2,732,020	5,220,109
Somerset	0	191,618	191,618
Talbot	2,831,792	2,859,124	5,690,916
Washington	0	3,929,540	3,929,540
Wicomico	0	1,800,274	1,800,274
Worcester	<u>2,911,051</u>	<u>5,288,656</u>	<u>8,199,707</u>
Total	\$228,829,42	\$207,401,714	\$436,231,142
